

## The Functions Scheme

This section explains the functions which Council is responsible for including those carried out by Committees and those which are carried out by Cabinet and officers through delegated decisions.

### 1. Introduction

- 1.1 References in the Scheme to the Functions Regulations are to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

### 2. Council Functions and Local Choice Functions

- 2.1 Council Functions are local authority functions which by law cannot be carried out by the Cabinet. Local Choice Functions are those which the Council can choose whether the Council Meeting or the Cabinet is responsible. The Council has determined that all Local Choice Functions will be the responsibility of Council.

#### **Council Meeting**

The following functions may be exercised only by Council:

- Adopting and changing the Constitution
- Approving or adopting the Policy Framework, the Budget.
- Any application to the Secretary of State in respect of any Housing Land Transfer
- Subject to the Urgency Procedure in the Access to Information Rules, making a decision contrary to the Policy Framework or the Budget, or part of it
- Appointment of Chair and Vice Chair of the Council
- Appointing the Leader of the Council
- Appointment of Independent Persons under the Localism Act 2011.
- Setting the Terms of Reference of committees, deciding on their composition including Chairs and Vice Chairs and making appointments to them (excluding committees of the Cabinet).
- Appointing representatives to outside bodies (unless the appointment is an Executive Function or has been delegated by the Council)
- Adopting and changing the Petitions Scheme
- Agreeing the Members Allowance Scheme
- Changing the name of the area
- Giving someone the title of honorary alderman
- Review of Polling Districts, Polling Places and Polling Stations
- Functions relating to Community Governance Reviews
- Functions relating to the name and status of areas and individuals in Schedule 1 of the Functions Regulations
- Byelaw functions in Regulation 2 and Schedule 1 of the Functions Regulations
- Power to promote or oppose local or personal bills set out in Regulation 2 and Schedule 1 of the Regulations
- Calculations relating to and setting of Council Tax
- Setting of Council House rent levels

## SECTION 17 – THE FUNCTIONS SCHEME

- Duty to designate an Officer as the Head of Paid Service
- Duty to designate an Officer as Chief Finance Officer and Section 151 Officer and to provide staff
- Duty to designate an Officer as the Monitoring Officer and to provide staff
- Adoption of Members' Code of Conduct
- Adoption of The Statements of Licensing Policy under the Licensing Act 2003
- To resolve whether to issue a casino licence
- The adoption of the Taxi Licencing Policy.

### Local Choice Function:

- The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the District – (Local Choice Function)

The following functions are the responsibility of Council but have also been delegated to Committees and/or Officers. The Committee or Officer to whom the function has been delegated is stated in brackets after each function.

- Elections functions in Schedule 1 of the Functions Regulations (Assistant Director of Governance and Monitoring Officer)
- Power to appoint staff on or above Assistant Director level, and to determine the terms and conditions on which they hold office (including procedures for their dismissal) (The Employment and Appeals Committee for posts wholly responsible to NEDDC or a specially convened Joint Employment and Appeals Committee for those officers where the officer works for more than one Council).
- Duty to make arrangements for the proper administration of financial affairs (Chief Finance Officer / Section 151 Officer)
- Power to appoint Officers for particular purposes (otherwise called the appointment of proper officers) (Monitoring Officer)
- Duty to approve the Council's statement of accounts, income and expenditure and balance sheet, or record of payments (Audit Committee)
- Authorisation of persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings (Monitoring Officer / Deputy Monitoring Officer/Legal Services Manager), to determine the calendar of meetings annually and make any subsequent amendments throughout the relevant period subject to rule 4.1 of the Council Procedure Rules (Monitoring Officer)

### Local Choice Functions:

- Determination of an appeal against any decision of the Authority (Appeals Committee (set up on an ad-hoc basis as necessary))
- Any function relating to contaminated land
- The discharge of any function relating to the control of pollution or the management of air quality
- The service of an abatement notice for a statutory nuisance
- Inspections for statutory nuisance
- Investigation of any complaint as to the existence of a statutory nuisance
- Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land (Assistant Director Planning, Planning Manager – Development Management, Deputy Monitoring Officer (Legal Services Manager))

## SECTION 17 – THE FUNCTIONS SCHEME

- Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976 (Senior Managers)
- Appointing or revoking the appointment of a person to any office or body other than the Council (Monitoring Officer)
- Making agreements with other local authorities to let them use officers (Head of Paid Service/ Directors/ Assistant Directors)

### **Delegation of Responsibility for Council Functions**

The following Committees have been appointed by the Council to exercise Council functions, with the terms of reference in this Scheme.

1. Scrutiny Committees\*
  - Business Scrutiny Committee\*
  - Communities Scrutiny Committee\*
  - Environment Scrutiny Committee\*
  - Services Scrutiny Committee\*
  - The Joint Scrutiny Committee (all four Committees meeting annually to consider the Council Budget proposals)
2. Audit Committee\*
3. Planning Committee\*
4. Licensing and Gambling Acts Committee\*
5. General Licensing Committee\*
6. Standards Committee\*
7. Joint ICT Committee\*
8. Employment and Appeals Committee\*
9. Investigation and Disciplinary Committee\*

#### \*Training

\*All members will be expected to undertake training in respect of their roles on each of the above Committees.

### **Executive functions**

Any function not specified as a Council or Local Choice function will be an executive function.

The Cabinet will have responsibility for all executive functions including:-

- (a) Strategic and Policy co-ordination.
- (b) Recommending major new policies (and amendments or revisions of existing policies) to the Council Meeting for approval as a part of the Budget and Policy Framework
- (c) Preparing and agreeing other policies and strategies for implementation.
- (d) Recommending to the Council Meeting the annual budget, including the Capital and Revenue Budgets and the level of Council Tax.

## SECTION 17 – THE FUNCTIONS SCHEME

- (e) Considering, at least annually, the level of reserves, provisions, and balances held by the Council and recommend any changes to the Council Meeting.
- (f) Making sure that the Annual Budget is implemented and the underlying principles adhered to in any changes required from time to time, including recommending to Council any changes to policy that will materially reduce or increase the services of the Council or create significant financial commitments in future years.
- (g) Taking in-year decisions on resources and priorities including the use of reserves together with other stakeholders and partners in the local community, to deliver and implement the Policy Framework and Budget
- (h) Carrying-out the Council's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder.
- (i) Considering and responding to recommendations and reports from Scrutiny Committees.
- (j) Monitoring expenditure on the capital programme.
- (k) Approving major service developments or reductions which are Key Decisions.
- (l) Consider the reports of external review bodies on key aspects of overall service delivery.
- (m) Making sure that the promotion of the rights, welfare and interests among all groups in society is given equal and primary consideration in all aspects of the Council's work and services.
- (n) Carrying out the Council's responsibilities for improving the economic, social and environmental well-being of the District and increasing the availability and equality of access to employment.
- (o) Reviewing and monitoring the Council's strategy and overall implementation on electronic transformation, transformational government, telecommunications, information systems and information technology, making recommendations to the Council Meeting as required.
- (p) Overseeing the provision of all the Council's services other than those functions reserved to the Council Meeting.
- (q) Securing the management and maintenance of the Council's housing stock.
- (r) Managing and maintaining the Council's non-housing property portfolio.
- (s) Collecting the Council Tax, National Non-Domestic Rates, periodic income and sundry debts.
- (t) Providing, managing and keeping under review the concessionary bus fares scheme.

## SECTION 17 – THE FUNCTIONS SCHEME

- (u) Carrying out the Council's powers for emergency planning and responding to civil emergencies.
- (v) Carrying out the Council's functions as a Local Planning Authority (except to the extent that those functions are by law the responsibility of the Council Meeting), including supplementary planning documents, and designating and altering conservation areas and adopting character statements for them.
- (w) Overseeing the Council's overall policy on the voluntary and community sector.
- (x) Approving the purchase, sale or appropriation of land and the leasing (or otherwise) of property
- (y) Authorising the making of compulsory purchase and control orders.
- (z) Writing- off debts.
- (za) Writing-off stocks, stores and other assets and to write off any losses of money or stores or to settle claims.
- (zb) Receiving reports on contract overspends in accordance with limits set out in the Finance Rules and agree the action to be taken.
- (zc) Giving grants or loans to parish/charitable, voluntary bodies or other bodies where permitted by law.
- (zd) Promoting and developing international exchanges and links with towns and cities in other countries.
- (ze) Carrying out the powers and duties of the Council under sections 13 and 14 of the Public Order Act 1986.
- (zf) Being the focus for forming partnerships with other local, public, private, voluntary and community sector organisations to address local needs.
- (zg) Conferring with other local authorities, government departments, statutory bodies, voluntary bodies, Derbyshire Constabulary or other external agencies in order to discharge the responsibilities vested in the Cabinet.
- (zh) Resolving disputes between Cabinet members about the exercise of their functions.
- (zi) Carrying out all functions under the Derbyshire Act 1981 and other local acts except those relating to licensing, registration or regulatory functions
- (zj) Making decisions where no other tier of government has responsibility or where a policy or strategy does not exist.
- (zk) Deciding all Local Choice Functions set out in section 2.1 of this Scheme which the Council Meeting decides should be undertaken by the Cabinet.

## SECTION 17 – THE FUNCTIONS SCHEME

- (zl) Deciding applications for disposal of land under section 135 of the Leasehold Reform, Housing and Urban Development Act 1993 and sections 32 and 45 of the Housing Act 1985 for disposal of housing land other than under Right to Buy legislation.
- (zm) The implementation of the Health and Safety at Work etc. Act 1974 in respect of the Council as an employer and all its operations.
- (zn) The appointment, terms of reference and membership of sub-committees to deal with matters within the Executive functions.
- (zo) Approving the level of any fee, charge, rent or other payment due to the Council provided it is within the Policy Framework.
- (zp) Monitoring the implementation of the Council's equalities responsibilities.
- (zq) Monitoring revenue contracts in excess of £375k and capital contracts in excess of £1m together with considering tenders referred to Cabinet for a decision.
- (zr) Monitoring the level of homelessness and the Council's responsibilities under the Housing Act 1996.

The Leader of the Council has notified the Monitoring Officer that the portfolios of individual Cabinet Members will be as set out in the Cabinet Members Portfolio Scheme at Section 10.

All the functions listed in this section are reserved to the Cabinet unless delegated to officers.

## SECTION 17 – THE FUNCTIONS SCHEME

### **Appendix 1 – Committee Terms of Reference**

#### **1. Scrutiny Committees**

The following Scrutiny Committees have been established:

- (i) Business Scrutiny Committee
- (ii) Communities Scrutiny Committee
- (iii) Environment Scrutiny Committee
- (iv) Services Scrutiny Committee
- (v) The Joint Scrutiny Committee of all Scrutiny Committees

With nine Councillors on each Committee.

Each Party Leader will supply an annual list of the substitute Councillors from their Party to the Governance Manager in advance of the Annual Meeting.

Nominated Members of each political group may act as substitutes on the Committee and will undertake training alongside other Committee Members. Substitutes may vote at Meetings.

Any substitutions must be notified to the Governance Manager in advance by midday the working day before the meeting.

If a Substitute Councillor is present at a meeting at which a Councillor (who they are substituting for) joins the meeting during the course of proceedings, the Substitute Councillor may not take part from that point.

The Scrutiny Committees will follow the Scrutiny Rules.

Each of the Scrutiny Committees will have a themed responsibility for scrutinising issues and monitoring performance relating to specific aspects of the Council Plan. These are:

#### **Business Scrutiny Committee**

Council Plan Goal: A Great Place to Work

#### **Communities Scrutiny Committee**

Council Plan Goal: A Great Place to Live Well

#### **Environment Scrutiny Committee**

Council Plan Goal: A Great Place that Cares for the Environment

#### **Services Scrutiny Committee**

Council Plan Goal: A Great Place to access to access Good Public Services

## SECTION 17 – THE FUNCTIONS SCHEME

The Council Plan sets out a range of specific targets and objectives to help achieve these overall goals.

The Council Plan can be accessed at: [The Council Plan 2023-27](#)

Each of the Committees will assess progress against these targets and objectives and, when appropriate, carry out detailed review work on issues related to their delivery. However, within the context of their Council Plan themes, each of the Scrutiny Committees will determine their own work programmes. As part of this they may choose to carry out focused review work on particular issues or policies and following on from this, to draw up their findings and to make specific recommendations to Cabinet for consideration.

Council will refer proposals that would establish new or amend existing policies, which have been made as part of motions proposed at Council meetings to the appropriate Scrutiny Committee. The Committee will be charged with considering the issues raised by the motion and reporting back their findings to Cabinet or Council (as appropriate) along with any recommendations, as appropriate.

Within their themed areas, all Scrutiny Committees will:-

- (i) provide 'checks and balances' on the effective delivery of the Council Plan, undertake reviews where necessary and be involved in the policy making process.
- (ii) review decisions made by and the performance of the Council Meeting, the Cabinet, Committees and Officers both in relation to individual decisions and over time (but not including Regulatory Decisions)
- (ii) review the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- (iii) question members of the Cabinet and Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions (but not including Regulatory Decisions)
- (iv) make recommendations to the Council Meeting and/or Cabinet arising from work undertaken by a Scrutiny Committee
- (v) review the performance of other public bodies in the area and invite reports from them by asking them to address the Scrutiny Committee about their activities and performance
- (vi) question and gather evidence from any person with their consent
- (vii) collaborate with other Scrutiny Committees and other bodies carrying out similar functions outside the Council
- (viii) report to the Council meeting annually on the scrutiny function and their work
- (ix) exercise functions relating to call in and Councillor Call for Action.

## SECTION 17 – THE FUNCTIONS SCHEME

### **Joint Scrutiny Committee**

To consider the Council's budget proposals and any other cross cutting work that requires input of all four scrutiny committees.

The Chair of the Joint Scrutiny Committee will be elected at the start of the meeting from one of the Chairs of the four themed scrutiny committees.

## **2. Audit Committee**

Council has established an Audit Committee, in line with the recommendations of the Chartered Institute of Public Finance (CIPFA) that effective governance and internal control arrangements should be in place. The primary role of the Audit Committee is to provide oversight of a range of core governance and accountability arrangements and ensure robust arrangements are maintained. The specific responsibilities of the Audit Committee are:

Committee will provide oversight of a range of core governance and accountability arrangements and ensure robust arrangements are maintained.

The specific responsibilities of the Audit Committee are:

- Supporting a comprehensive understanding of governance across the Council and among those charged with governance, fulfilling the principles of good governance.
- Considering the effectiveness of the Council's risk management arrangements. The Committee should understand the risk profile of the organisation and seek assurances that active arrangements are in place on risk related issues, for both the Council and its collaborators/partners. This will include monitoring and reviewing of the Council's treasury management arrangements.
- Monitoring the effectiveness of the system of internal control, including arrangements for value for money, supporting standards and ethics and managing the Council's exposure to the risks of fraud and corruption.
- Being satisfied that the Council's statutory statements of account and any reports that accompany them, including the Annual Governance Statement, properly reflect the risk environment, and any actions required to improve it.
- Considering the audit arrangements in place to secure adequate assurance across all operations and where appropriate partners and collaborators.
- Overseeing the independence, objectivity, performance and conformance to professions standards of the internal audit function.
- Supporting effective arrangements for Internal Audit
- Promoting the effective use of Internal Audit within the assurance framework

## SECTION 17 – THE FUNCTIONS SCHEME

- Considering the opinion, reports and recommendations of external audit and their implications for governance, risk management or control, and monitor management action in response to the issues raised by external audit.
- Contributing to the operation of efficient and effective external audit arrangements, supporting the independence of auditors and promoting audit quality
- Supporting effective relationships between all providers of assurance, audits and inspections and the Council, encouraging openness to challenge, review and accountability.
- Reporting annually on how the Committee discharged its responsibilities and include an assessment of its performance. This report will be presented to Full Council and be available to the public on the Council's website.

Those appointed to serve on the Audit Committee will have the following key characteristics. They will be:

- Trained to fulfil their role, be objective and have an inquiring and independent approach.
- Promote the good governance principles.
- Have a strong independently minded chair, displaying a depth of knowledge, skills and interest in both the Council's governance and best practice.
- Willing to operate in an apolitical manner.
- Unbiased, treating auditors, officers and decision makers fairly.
- Able to challenge decision makers.
- Have knowledge, expertise and interest in the work of the Committee.

## SECTION 17 – THE FUNCTIONS SCHEME

### **3. Planning Committee**

There will be a Planning Committee of 11 Councillors.

Each Party Leader will supply an annual list of the substitute Councillors from their Party to the Governance Manager in advance of the Annual Meeting.

Nominated Members of each political group may act as substitutes on the Committee and will undertake training alongside Planning Committee Members.

Any substitutions must be notified to the Governance Manager in advance by midday the working day before the meeting.

#### Deferred Planning Committee consideration of planning application

Councillors must not take part in the Planning Committee's determination of an application, unless they have been present to hear the entire debate, including the officers' introduction to the matter and any speakers' comments. If an application has previously been deferred after the public speakers, then the same Councillors will be asked to reconsider the application when it is returned to Planning Committee.

#### **The following matters may only be determined by the Planning Committee:**

- The determination of all submissions made under The Town and Country Planning Act 1990 and The Town and Country Planning (General Permitted Development) Order (or any associated or related legislation or regulations) for the consent of the Local Planning Authority where:
  - (a) In the opinion of the Assistant Director of Planning or the application raises matters which should be determined by the Planning Committee.
  - (b) The application is submitted by or on behalf of the Council for its own development, except for the approval of development to which no objections have been received.
  - (c) A District Ward Councillor or the Ward Councillor for an adjoining Ward has notified the Assistant Director of Planning / the Planning Manager – Development Management or the application case officer in writing or by e-mail within 3 weeks of the publication of the weekly list of their contention that the application should be determined by the Planning Committee and the notification is supported by one or more material planning considerations, the planning issues to be fully explained by the Member calling it in or the Chair of Planning Committee (or Vice Chair in their absence) has agreed to the application being considered by Planning Committee.
  - (d) A District Ward Councillor or the Ward Councillor for an adjoining Ward has notified the Assistant Director of Planning, the Planning Manager - Development Management or the application case officer by email before the application has been determined the material planning considerations (and where applicable that it is in the public interest, based on material planning considerations) why they contend the application should be determined by Planning Committee or

## SECTION 17 – THE FUNCTIONS SCHEME

the Chair of Planning Committee (or Vice Chair in their absence) has agreed to the application being considered by Planning Committee, and

- (e) The Assistant Director of Planning has accepted the material planning considerations which have been put forward and has advised and/or has received the consent of the Planning Committee Chair or Vice Chair that the application should be heard and decided on by the Planning Committee.
- (f) A District Ward Councillor or the Ward Councillor for an adjoining Ward has notified the Assistant Director of Planning, the Planning Manager - Development Management or the application case officer by email before the application has been determined the material planning considerations (and where applicable that it is in the public interest, based on those material planning considerations) why they contend the application should be determined by Planning Committee, and the Assistant Director of Planning has accepted that there is a public interest in the application being heard and decided by the Planning Committee.

Items where it is in the public interest to be determined by the Planning Committee are likely to be of great significance to the local area, either major developments or where complex or sensitive issues have arisen.

- (g) If a serving Councillor, senior officer or senior manager of the Council (Team Manager and above, Planning Officer or other Planning team member (including a consultant employed to carry out the role of a Planning Officer) advising or determining on planning applications, submits an application to the Authority for himself/herself or on behalf of any other person, or are the Partner or Relative of the same who submits their own application, they will inform both the Planning Manager and the Authority's Monitoring Officer and not take part in processing or determining the Application.
- (h) To consider any objections or other representations made in opposition to the proposed making of a Tree Preservation Order.

### **Delegation of functions to officers**

The following functions may be carried out by the Assistant Director of Planning or delegated by them to the Planning Manager – Development Management or other appropriate officers. A record shall be kept of specific actions carried out under delegation from the Assistant Director of Planning by the Planning Manager – Development Management as part of the Service 'Departmental Delegation Scheme'.

- All submissions made under The Town and Country Planning Act 1990 and The Town and Country Planning (General Permitted Development) Order (or any associated or related legislation or regulations) for the consent of the Local Planning Authority except for the matters reserved to the Planning Committee as set out above.
- Making Tree Preservation Orders (TPO's) except where there are any objections or other representations made in opposition to the proposed making of a TPO.
- Amending or revoking Tree Preservation Orders (TPOs). Where there are any objections or other representations made in opposition to the proposed amendment

## SECTION 17 – THE FUNCTIONS SCHEME

or revocation of a TPO, the delegation to the officer to be in consultation with the Chair of the Planning Committee.

- Planning and development control functions including enforcement for which the Council is responsible in Schedule 1 of the Functions Regulations
- Hedgerow and tree preservation functions for which the Council is responsible in Schedule 1 of the Functions Regulations
- Rights of Way functions for which the Council is responsible in Schedule 1 of the Functions Regulations
- Delegation to serve Section 215 Town and County Planning Act notices is further extended to Environmental Health Officers.

## SECTION 17 – THE FUNCTIONS SCHEME

### 4. Licensing and Gambling Acts Committee

There will be a Licensing and Gambling Acts Committee of between 10 and 15 Councillors which must meet at least once a year by law.

Each Party Leader will supply an annual list of the substitute Councillors from their Party to the Governance Manager in advance of the Annual Meeting.

Nominated Members of each political group may act as substitutes on the Committee and will undertake training alongside other Committee Members. Substitutes may vote at Meetings.

Any substitutions must be notified to the Governance Manager in advance by midday the working day before the meeting.

If a Substitute Councillor is present at a meeting at which a Councillor (who they are substituting for) joins the meeting during the course of proceedings, the Substitute Councillor may not take part from that point.

It is a legislative requirement that the Council maintains a committee that deals solely with matters related to the Licensing Act 2003 and the Gambling Act 2005. These committee functions cannot be combined with any others.

**The functions of the Licensing and Gambling Acts Committee include:**

<b>Functions</b>	<b>Matters Reserved to Council Meeting</b>
<p>To consider all licensing matters related to the Licensing Act 2003 and the Gambling Act 2005</p> <p>To recommend to Council statements of Licensing Policy under the both the Licensing Act 2003 and the Gambling Act 2005</p> <p>To make any minor changes and updates to the Statements of Licensing Policy under the both the Licensing Act 2003 and the Gambling Act 2005 that are required following the adoptions by Council of both statements.</p> <p>To recommend to Council to resolve whether to issue a Casino Licence</p>	<p>The following matters are reserved to the Council Meeting:</p> <ul style="list-style-type: none"><li>(i) The Statements of Licensing Policy under both the Licensing Act 2003 and the Gambling Act 2005</li><li>(ii) The power to resolved to issue a Casino Licence</li></ul>

## SECTION 17 – THE FUNCTIONS SCHEME

### **4.1 Licensing and Gambling Acts Sub Committee**

Licensing and Gambling Acts Sub Committees will be established comprising three Members who are Members of the Licensing and Gambling Acts Committee to consider any matters referred to them which relate to matters arising under the Licensing Act 2003 or the Gambling Act 2005.

A quorum of three Members of the Sub Committee will be required for the meeting to be held. The Chair for the meeting will be determined by the Members present at the meeting.

Licensing and Gambling Acts Sub Committees will be arranged by the Monitoring Officer as and when required.

#### **The functions of the Licensing and Gambling Acts Sub-Committee include:**

- To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Licensing Act 2003, including:
  - Application for a personal licence where there are relevant unspent convictions;
  - The review of a premises licence or club premises certificate; other than minor variations
  - Decision to object when the local authority is the consultee and not the relevant authority considering the application;
  - Determination of a police or environmental health objection to a temporary event notice.
- Where a relevant representation has been made in respect of the following applications:
  - personal licence;
  - premises licence or club premises certificate;
  - provisional statement;
  - variation to a premises licence or club premises certificate;
  - variation to a designated personal licence holder;
  - transfer of a premises licence;
  - interim authority.
- To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Gambling Act 2005, including:

## SECTION 17 – THE FUNCTIONS SCHEME

- Application for a premises licence where representations have been received and not withdrawn.
- Application for variation to a licence where representations have been received and not withdrawn.
- Application for a transfer of a licence where representations have been received from the Gambling Commission.
- Application for a provisional statement where representations have been received and not withdrawn.
- Review of a premises licence.
- Application for a club gaming/club machine permits where objections have been received and not withdrawn.
- Cancellation of club gaming/club machine permits.

### **Delegation of functions to officers**

The following functions may be exercised by the Assistant Director of Communities and Environmental Health save for the matters reserved for Licensing and Gambling Acts Committee or Sub-Committees, or for Full Council:

- All matters arising under the Licensing Act 2003.
- All matters arising under the Gambling Act 2005.

## **5. General Licensing Committee**

There will be a General Licensing Committee of between 10 and 15 Councillors which will meet at least once a year.

Each Party Leader will supply an annual list of the substitute Councillors from their Party to the Governance Manager in advance of the Annual Meeting.

Nominated Members of each political group may act as substitutes on the Committee and will undertake training alongside other Committee Members. Substitutes may vote at Meetings.

Any substitutions must be notified to the Governance Manager in advance by midday the working day before the meeting.

If a Substitute Councillor is present at a meeting at which a Councillor (who they are substituting for) joins the meeting during the course of proceedings, the Substitute Councillor may not take part from that point.

## SECTION 17 – THE FUNCTIONS SCHEME

As a result of the legislative restriction that the Licensing and Gambling Acts Committee can only deal with matters relating to the Licensing Act 2003 and the Gambling Act 2005 the Council will maintain a General Licensing Committee to deal with all other matters relating to licensing.

### The functions of the General Licensing Committee include:

Functions	Matters Reserved to Council Meeting
To consider all licensing matters not covered by the Licensing Act 2003 and the Gambling Act 2005, including Private Hire and Hackney Carriage Drivers, Vehicles and Operators.	The following matters are reserved to the Council Meeting:  (i) Determination of the Council's Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy  (ii) Determination of other licensing policies, as required
To recommend to Council any licensing policies except the Licensing Act 2003 and the Gambling Act 2005 policies.	
To make any minor changes and updates to the Council's Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy following adoption by Council	
To make any minor changes and updates to other relevant licensing policies as required	

### 5.1 General Licensing Sub Committee

General Licensing Sub-Committees will be established, comprising three members who are Members of the General Licensing Committee to consider any matters referred to them which relate to:

- i. matters arising under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Police and Crime Act 2009);
- ii. private hire and/or hackney carriage matters;
- iii. scrap metal sites and operators.

but not at the same meeting.

A quorum of three Members of the Sub Committee will be required for the meeting to be held. The Chair for the meeting will be determined by the Members present at the meeting.

#### Schedule of Meetings

General Licensing Sub Committees will be arranged by the Monitoring Officer as and when required.

## SECTION 17 – THE FUNCTIONS SCHEME

The membership of any unscheduled General Licensing Sub-Committee meetings that are arranged will be determined by the Monitoring Officer in consultation with the Chair of the General Licensing Committee.

### **The functions of the General Licensing Sub-Committee include:**

- To consider all hackney carriage and private hire licensing issues which are referred to it in accordance with the Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy.
- The determination of applications for sexual establishments (including sexual entertainment venues, sex shops and sex cinemas) under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) where representations have been received and not withdrawn.
- To determine applications for house-to-house collections under the House to House Collections Act 1939 (as amended) where representations are received from Police and not withdrawn or where officers have reasonable grounds for referral to Committee.
- To determine applications and revocations under the Scrap Metal Dealers Act 2013 where representations have been received and not withdrawn.

### **Delegation of functions to officers**

The following functions may be exercised the Assistant Director Communities and Environmental Health, save for the matters reserved for General Licensing Committee or Sub-Committees, or for Full Council:

- All hackney carriage and private hire licensing issues in accordance with the Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy.
- All matters concerning the discharge by the Council of its licensing function under the Local Government (Miscellaneous Provisions) Act 1982 (as amended)
- All matters concerning the discharge by the Council of its licensing function under the House to House Collections Act 1939 (as amended)
- All matters concerning the discharge by the Council of its licensing function under the Scrap Metal Dealers Act 2013
- All other licensing matters delegated from time to time by the General Licensing Committee

## SECTION 17 – THE FUNCTIONS SCHEME

### **6. Standards Committee**

There will be a Standards Committee of up to 9 Members.

The Committee will be politically balanced.

Each Party Leader will supply an annual list of the substitute Councillors from their Party to the Governance Manager in advance of the Annual Meeting.

Nominated Members of each political group may act as substitutes on the Committee and will undertake training alongside other Committee Members. Substitutes may vote at Meetings.

Any substitutions must be notified to the Governance Manager in advance by midday the working day before the meeting.

If a Substitute Councillor is present at a meeting at which a Councillor (who they are substituting for) joins the meeting during the course of proceedings, the Substitute Councillor may not take part from that point.

Substitute Councillors will not be allowed to sit on Hearing Panels of the Standards Committee.

#### **Independent Persons**

The Council will appoint two Independent Persons who will be consulted by the Authority before it makes a finding as to whether a member or co-opted member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member.

They may also be consulted by the Authority in respect of a standards complaint at any other stage and by a member or co-opted member of the District Council or of a parish or town council against whom a complaint has been made.

#### **The functions of the Standards Committee include:**

- Advising the Council on the adoption of or revision to the Members' Code of Conduct.
- Monitoring the operation of the Members' Code of Conduct and promotion of high standards of conduct by Members and Co-opted Members of the Council.
- Overseeing Member Training, (including the attendance of Members at courses), in relation to matters affecting their conduct and probity including relevant information provided to newly affected District Councillors.
- Proactively engaging with Town / Parish Councils to promote and maintain high standards of conduct within Town / Parish Councils and to assist them in following their own codes of Conduct or adopt the North East Derbyshire Code of Conduct.
- Overseeing training provided to Parish Councils on conduct and probity matters including relevant information provided to newly elected Parish Councillors.

## SECTION 17 – THE FUNCTIONS SCHEME

- Overseeing the public face of the Standards Committee through the website and increase public awareness of the Code of Conduct and its application.
- Granting dispensations to allow Councillors and co-opted members to take part in meetings where they have a disclosable pecuniary interest or significant other interest.
- Receiving regular reports from the Monitoring Officer on the number of complaints against members, how they are progressing, what decisions have been made and what action taken.
- Through the Hearings Sub-Committee, undertaking hearings into complaints which have been investigated and deciding on sanctions where a breach of the Members' Code of Conduct has been found.
- Overseeing matters referred to the Monitoring Officer in relation to complaints against Town and Parish Councillors where it is inappropriate for the Monitoring Officer to take a decision.
- Overseeing the whistleblowing policy and to approve amendments to the policy as necessary.
- Overseeing complaints handling and outcomes of Ombudsman investigations.
- Receiving annual reports on gifts and hospitality received by Council members and officers.
- Receiving annual reports on the Council's operation and use of the powers under the Regulation of Investigatory Powers Act 2000 and to approve amendments to the policy as necessary.
- Receive reports of the Independent Remuneration Panel prior to Council submission.
- Undertaking an annual review of the Council's Constitution, making recommendations to the Council meeting.
- Provide an annual written report to Council on the work of the Committee

### **7. Employment and Appeals Committee and Investigation and Disciplinary Committee**

There will be an Employee and Appeals Committee of four Councillors.

The membership shall comprise the Leader of the Council, the Deputy Leader, a Cabinet Member and the Leader of the Largest Minority Group or their appointed substitute.

There will be an Investigation and Disciplinary Committee of four Councillors.

## SECTION 17 – THE FUNCTIONS SCHEME

The membership shall comprise of three Cabinet members and the Deputy Leader of the Largest Minority Group or their appointed substitute.

Substitutes if called upon will replace an existing member for the duration of an employment procedure in its entirety. At its conclusion, appointment reverts to the Member originally appointed.

The Members shall be appointed at the Annual Meeting. The rules of proportionality shall apply to this Committee.

The two Committees will have the roles and functions as set out below:

<b>EMPLOYMENT AND APPEALS COMMITTEE</b>
<p>To interview candidates for posts within the Senior Management Team.</p> <p>To appoint candidates to posts within the Senior Management Team, with the exception of the Head of Paid Service, Chief Finance Officer and Monitoring Officer.</p> <p>To recommend to Council the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer.</p> <p>To deal with appeals from the Chief Officers/Deputy Chief Officers, including Statutory Officers, against action taken against them.</p>

<b>INVESTIGATION AND DISCIPLINARY COMMITTEE</b>
<p>To deal with the grievance and harassment procedures for all Statutory Officers and other Chief Officers/Deputy Chief Officers.</p> <p>To determine whether to appoint an Independent Investigator to give an independent report regarding a complaint against a Statutory Officer.</p> <p>In respect of the dismissal of any of the Statutory Officers, namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, the Investigation and Disciplinary Committee shall make a recommendation to Council which will be supported via a report from two of the Council's Standards Committee Independent Persons.</p>

## **8. Council Joint Consultative Group (JCG)**

The role of the Council Joint Consultative Group is to oversee the industrial relations framework of the Council and to provide a method of consultation between management and employee/union representatives on matters affecting employees generally.

### **OBJECTIVES**

To bring together Members, Management and Trade Union representatives to:-

## SECTION 17 – THE FUNCTIONS SCHEME

- (a) provide a regular basis of consultation and negotiation on matters of principle relating to employee relations, working and other arrangements and conditions of service affecting employees throughout the Authority which are not reserved for negotiation at national, provincial or other agreed local levels;
- (b) improve service provision and efficiency;
- (c) consider health and safety matters to improve standards of health and safety performance throughout the Authority.

### **FUNCTIONS**

In achieving the above objectives the following specific matters, which affect employees generally, are appropriate for consideration by the Group:-

- (a) operational and policy issues;
- (b) negotiation on local terms and conditions of service with the exception of those affecting a single service;
- (c) issues and proposals to promote equality.

Informal meetings between Management and Employee representatives may be arranged outside of the scheduled Council Joint Consultative Group to consider policy or legal developments which require changes to policies to be made. Such meetings will take place as and when required.

Employee relations and Health and Safety issues within specific services should be raised with the relevant Service managers/Head of Service, and the HR & OD Manager and/or Health and Safety Manager where necessary, to seek a resolution before they are raised at the Council Joint Consultative Group.

### **MEMBERSHIP**

The Group shall include six representatives from Management (Employer Side) including the Leader, Deputy Leader, relevant Portfolio Member, Head of Paid Service, Human Resources Manager or their representative and six representatives of employees (Employees' side).

Both Sides shall appoint their representatives to hold office for one year from the Annual Meeting of the Council. Representatives shall be eligible for re-appointment.

The Employees' Side shall include representatives from recognised Trade Unions as follows:-

UNISON  
GMB  
UNITE

who shall represent the interests of all the workforce.

## SECTION 17 – THE FUNCTIONS SCHEME

Where possible, not more than one person from any Service within the Council shall attend as a Trade Union representative.

Trade Union officials and Service representatives may attend meetings as advisers.

If a representative of either Side is unable to attend a meeting a substitute representative may attend subject to the terms of these Terms of Reference.

The Group shall have power to appoint Sub-Groups as necessary.

### **OFFICERS**

At the first meeting in each municipal year a Chair and Vice Chair shall be appointed from among the Group.

The Chair and Vice Chair shall be from different Sides of the Group and shall alternate each year unless otherwise agreed.

The Secretary for the Group shall be provided from the Governance team.

### **MEETINGS**

There shall be at least four meetings scheduled each municipal year at quarterly intervals.

Additional or Special meetings may be called with the agreement of the Chair at the request of either Side submitted through the Secretary.

If a scheduled meeting cannot take place, due to lack of quorum or a reason other than lack of business, the meeting shall be reconvened

Separate meetings of both Sides shall take place immediately prior to a meeting of the Group.

If there is insufficient business for a meeting it may be cancelled with the agreement of the Chair and Vice Chair.

Three members of each Side shall together constitute a quorum.

Recommendations from the Group shall, wherever possible, be reached by consensus and, where appropriate, the views of both Sides shall be reflected in the Minutes. Where necessary, the Council may still proceed with the Council's decision making processes in accordance with the Constitution, even if consensus cannot be reached.

Items for inclusion on an agenda shall be provided to the Secretary and exchanged between the two Sides not later than three weeks prior to a meeting. Such items must be specific to facilitate investigations and evaluation prior to a meeting. They must be matters which cannot be settled locally with service management. Items with only subject headings may be deferred if insufficient information has been supplied to allow for proper consideration of the matter. Other business not appearing on the

## SECTION 17 – THE FUNCTIONS SCHEME

agenda will not be discussed unless the Chair agrees that a matter is urgent, in which case the reasons for urgency will be minuted.

Minutes shall be circulated to the Chair and Vice Chair and then circulated to Members of the Group with the agenda for the next meeting, at which they will be approved and signed by the Chair and Vice Chair.

### **WORKING ARRANGEMENTS**

To manage its work programme and tasks strategically, the Group may appoint managed Sub-Groups with appropriate membership to undertake specific tasks.

These Sub-Groups will report findings back to the Council JCG, who will consider the findings and any recommendations.

### **TIME OFF ARRANGEMENTS**

Employees' Side representatives shall be granted time off work to attend meetings of the Group and reasonable accommodation shall be provided for them to hold pre-meetings.

The six employee representatives shall be entitled to take a maximum of half a day off work (including travelling time) one month before each meeting of the Group to formulate and discuss agenda items.

## SECTION 17 – THE FUNCTIONS SCHEME

### **9. Advisory bodies and working parties**

Advisory bodies or working parties may be established from time to time which include in their membership Councillors and/or Officers and/or representatives from partner organisations or the local community. Working parties or advisory bodies established under this section will not be constituted as committees and are not authorised to make decisions on behalf of the Council.

These currently consist of:

- Asset Management Board
- Local Plan Working Group
- Senior Pay Working Group
- Risk Management Group